

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of Rules and
Regulations Implementing the
Telephone Consumer Protection
Act of 1991

CG Docket No. 02-278

COMMENTS OF ROBERT BIGGERSTAFF

Introduction

By these filings, various entities ask the Commission to reverse the salutary benefits of existing rules. The Commission should deny all such requests in their entirety, and reaffirm its existing interpretations.

Cargo Airline Association

The issues raised by CAA have been amply discussed in this docket. *See, e.g.* comments filed in the GroupMe and related filings. CAA has ample solutions in its own hands, including indemnification by the original shipper, and operating as a passive conduit for messages sent by the original shipper. There is no problem with CAA relying on *accurate* representations of consent from a third party, but that will not constitute actual consent where the claim is made falsely.

Communication Innovators

The petition of Communication Innovators is yet another in a long list of filings seeking to walk back the Commission's well founded interpretation of "automatic telephone dialing systems." This docket is replete with comments opposing such a move. *See, e.g.* Comments filed in the GroupMe and related filings; Comments files in the Petitions for Reconsideration of

Pace, Marketlink, and Satcom and related filings. A predictive dialer is an ATDS. As Judge Easterbrook and a unanimous Seventh Circuit panel held:

[P]redictive dialers lack human intelligence and, like the buckets enchanted by the Sorcerer's Apprentice, continue until stopped by their true master.¹

3G Collect

Calling a cell phone and playing a prerecorded message without express consent is a black letter violation of the TCPA. 3G Collect has an ample solution—use the Neustar service to identify cell numbers, and use a live person to ask permission before playing the prerecorded message.

Call Assistant, LLC

I am one of the unfortunate victims of calls from robocallers using the Call Assistant “technology.” These are robot calls, playing *prerecorded* messages—regardless if the robot is being manipulated by a person.

During these calls I personally received using this technology, I asked several questions of the “caller” which were met by wholly inappropriate responses (paraphrased) such as “he he he”, “let me adjust my headset”, and “I’m sorry, I am not allowed to deviate from my script.” I asked questions such as are you licensed in my state? Are you a paid solicitor? None of these questions received answers of any merit.

A human playing recorded messages is still playing *prerecorded* messages. A human typing responses that are then read by a synthesized voice, is an “artificial” voice. Both violate the black letter of the TCPA.

¹ *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637 (7th Cir. May 11, 2012).

I also believe that this technology is deceptive. Many consumers are fed up with the export of jobs and in particular, in dealing with “teleservices” calls where the other party’s command of language is so poor as to frustrate the entire conversation. Many consumers chose not to do business with entities that ship these jobs overseas. This has led some companies to repatriating those teleservices jobs. The Call Assistant technology lets companies deceive consumers and deprive those consumers of meaningful information many would use to make decisions about doing business with such companies.

Respectfully Submitted,

/s/ Robert Biggerstaff